

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND COMMISSION FOR HUMAN RIGHTS

Public Notice of Proposed Rule-Making

Pursuant to the provisions of § 34-37-6(j) and § 28-5-13(4) of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws, the Rhode Island Commission for Human Rights hereby gives notice of its intent to amend '2002 – Processing of a Charge' of the Commission's Fair Housing Rules and Regulations.

The purpose of these amendments is to implement the Commission's requirements under its "Memorandum of Understanding" with the U. S. Department of Housing and Urban Development.

The proposed regulation and concise summary of non-technical amendments are available for public inspection at www.richr.ri.gov, in person at the Commission office located on the third floor at 180 Westminster Street, Providence, RI 02903, or requested by email from fgaschen@richr.ri.gov or by calling Francis A. Gaschen, Esquire at 401-222-4477.

In the development of the proposed amendments consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed amendments by January 17, 2014 to Francis A. Gaschen, Esquire, RI Commission for Human Rights, 180 Westminster Street, Providence, RI 02903-1918, 401-222-4477 or fgaschen@richr.ri.gov.

A public hearing to consider the proposed amendments shall be held on January 17, 2014 at 9:30 AM at 180 Westminster Street, Providence, RI 02903, at which time and place all persons interested therein will be heard. The place of the public hearing is accessible to those with disabilities. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-222-2664 or RI Relay 711 at least three business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

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Concise Summary of Proposed Non-technical Amendments
To
“Processing of a Charge”

In accordance with the Administrative Procedures Act, § 42-35-3(a)(1) of the General Laws of Rhode Island, the following is a concise summary of the proposed non-technical amendments to the Fair Housing Rules and Regulations:

1. Section B(9)(a) provides that if, after a finding of probable cause, a party before the Commission makes an election to have the matter heard in Court rather than before the Commission, the Commission shall commence and maintain the action in court if neither the attorney general or the complainant have filed their own action.
2. Section B(12) provides that if, after a finding of probable cause, neither party before the Commission makes an election to have the matter heard in Court rather than before the Commission, a Commission attorney shall maintain the administrative action.

RULES AND REGULATIONS PERTAINING TO THE RHODE
ISLAND COMMISSION FOR HUMAN RIGHTS

2002. Processing of Charges under Title 34, Chapter 37.

A) Procedures:

- 1) the procedures set forth in the Rules 1 – 17 of the Commission Rules and Regulations shall apply with respect to charges filed under Title 34, Chapter 37 as provided in Rules 1 – 17 of the Commission Rules and Regulations and as applicable;

B) Upon the filing of a charge:

- 1) the Commission will serve notice upon the complainant acknowledging such filing and advising the complainant of the time limits and choice of forums provided in the Act;
- 2) the Commission shall, not later than ten (10) days after such filing, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of such respondent under the Act, together with a copy of the original charge;
- 3) each respondent may file, not later than ten (10) days after receipt of notice from the Commission, an answer to such charge;
- 4) the Commission shall commence an investigation before the thirtieth (30th) day after the receipt of the charge of the alleged discriminatory housing practice and complete such investigation within one hundred (100) days after the filing of the charge, unless impracticable to do so;
- 5) if the Commission is unable to complete the investigation within one hundred (100) days after the filing of the charge, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so;
- 6) the Commission shall make final administrative disposition of a charge within one year of the filing of the charge, unless impracticable to do so;
- 7) if the Commission is unable to make final administrative disposition of a charge within one year of the filing of the charge, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so;
- 8) in addition to the right to sue procedures set forth in Rule 17 of the Commission Rules and Regulations, when a complaint issues after a finding of probable cause, any party may elect to have the claims asserted in that complaint decided in a civil action in lieu of an administrative hearing. The election must be made not later than twenty (20) days after the receipt by the electing person of service of the complaint. The person making such election shall give notice of doing so to the Commission, the attorney general, and to all other complainants and respondents to whom the charge relates; ~~and~~

- 9) if an election is made as discussed above in Rule 2002(B)(8) of the Commission Rules and Regulations:
- (a) the complainant, the Commission or the attorney general may commence and maintain a civil action on behalf of the aggrieved person in the Superior Court as provided in Section 28-5-28 within ninety (90) days after receipt of notice of an election. The Commission shall commence and maintain an action seeking appropriate relief for an aggrieved party and vindication of the public interest, if neither the attorney general nor the complainant has commenced a civil action on behalf of the aggrieved person. If the complainant commences a civil action on behalf of the aggrieved person, the Commission shall intervene in the case on behalf of the public interest. If the attorney general commences a civil action on behalf of the aggrieved person, the Commission may intervene on behalf of the public interest;
 - (b) any party may claim a trial by jury. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action;
 - (c) the Superior Court may make orders consistent with Section 34-37-5(H) of the General Laws of Rhode Island and may also award (1) punitive damages and (2) such damages as the court deems just and proper;
- 10) if the Commission, after investigation, determines that probable cause exists, it shall have the power to issue and cause to be served upon any person or respondent a complaint stating the charges in that respect;
- 11) the Commission's probable cause determination shall have the same meaning as reasonable cause as defined in the Fair Housing Act of 1968, as amended, Section 810(g)(1)& (2);
- 12) if none of the parties makes an election as provided above, a Commission attorney, acting as the Civil Prosecutor, shall either maintain the administrative action seeking appropriate relief for an aggrieved party and vindication of the public interest, or, if the complainant is represented by an attorney or proceeds pro se, participate in the administrative action on behalf of the public interest.

As Amended:

September 16, 1993

December 18, 2001

January 15, 2014 (Proposed)

COMPILER'S NOTES:

Proposed Additions: Underlined

Proposed Deletions: ~~Strikeouts~~

Statutory language is noted in *italics*.